

## **REMARKS**

Reconsideration and allowance in view of the foregoing amendments and following remarks are requested.

### **Interview Summary**

Two telephonic interviews were conducted between Richard Wydeven and Examiner Daniel Lastra on January 23 and January 30, 2007. During the January 23, 2007, interview Mr. Wydeven attempted to persuade Examiner Lastra that Ikeda does not anticipate the current invention. At one point Examiner Lastra referenced the fact that Ikeda at Col. 11, Ln. 45 teaches using an expiration date to determine which of the equally encumbered points, described in Ikeda, to spend. Mr. Wydeven explained that encumbrance level does not encompass expiration dates, as reflected, for example, in claim 2. Further, Examiner Lastra requested that Applicant Fax him a preliminary amendment that had been previously submitted but apparently incompletely entered. During the January 30, 2007, interview, Examiner Lastra further explained his position on Ikeda, which was documented in the Examiner's Interview Summary.

### **Objection to the Specification**

The Examiner had objected to the specification because of certain inconsistencies between the written specification and the figures. These inconsistencies were remedied by the Preliminary Amendment filed August 27, 2001, where the typographical errors objected to were corrected. Further, on January 23, 2007, Applicant faxed the Examiner a copy of the Preliminary Amendment filed August 27, 2001. The relevant paragraph of the specification, which was corrected in the preliminary amendment, is consistent with the claimed invention and reads:

Then, in a step 708, of the available awards with the earliest expiration date and with the earliest earning date, the most encumbered awards are determined. In the above example, the available awards with the earliest expiration date and with the earliest earning date correspond to rows 338 and 340. The awards corresponding to row 338 were earned at business "4" according to promotion "2". Referring now to Fig. 4, row 412 indicates that awards earned at business "4" according to promotion "2" are not accepted by supplier "200". Thus, the awards corresponding to row 338 are encumbered. On the other hand, the awards corresponding to row 340 were earned at business "5" according to promotion "1". Referring to table 400, these awards are not encumbered. Thus, in step 708, row 338 is the most encumbered of the awards.

### **Claim Rejection Under 35 U.S.C. 112 ¶ 2**

The Examiner has rejected claim 4 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The “type” of award refers to characteristics of the award, such as, the business that issued the award, the promotion from which the award was earned , black out dates, award classification, etc. Claim 4 has been amended by this response to read, “[t]he method of claim 1 wherein the type of award includes from which promotion the award was earned.”

### **The Examiner’s Rejection of Explanatory Diagrams**

While Applicant continues to disagree with the Examiner’s assertion that the explanatory diagrams constitute new matter, Applicant has left the explanatory diagrams out of this Office Action response in order to further prosecution. Further, Applicant believes that the explanatory diagrams are not necessary, at this point in prosecution, to visually depict what is clearly and unambiguously set forth in the words of the specification and claims and has been explained thoroughly during three Examiner interviews.

### **Claim Rejections – 35 U.S.C. § 102**

Claims 1-5, 7, 8, 10-13, 15, 17-19, and 21 stand rejected under 35 U.S.C. § 102 as being anticipated by Ikeda, U.S. Patent No. 5,937,391. An anticipation rejection under 35 USC § 102 requires a showing that each limitation of a claim is found in a single reference, practice, or device. See In re Donohue, 766 F.2d 531, 226 USPQ 619, 621 (Fed. Cir. 1985). While Applicant continues to disagree with the Examiner’s position that Ikeda teaches all the elements of the rejected claims, the Applicant has amended the claims in order to clarify the difference between Ikeda and the claimed invention. Ikeda does not teach each limitation of the claims as amended.

The present invention relates to a system for award redemption. Awards are acquired through participating businesses and may vary depending on specific promotions that those businesses are offering. Once earned, an award may be redeemed to acquire a good or service from a participating business (i.e., “a supplier”). However, the redeemability of all awards is not

equal, because some suppliers may limit award redemption based on where and during what promotions the awards were earned. This is illustrated in Figure 4 of the application which shows the business and promotion for which suppliers 200, 300 and 400 will not redeem awards. If an award is not redeemable at a business it is encumbered. The more encumbrances an award has (i.e., the more limitations on redeeming the award), the lower the redemption opportunity of the award is. The relative redeemability of the award is reflected by the award's encumbrance level. An award that is redeemable by many suppliers has a lower encumbrance level than an award that is redeemable at fewer suppliers. To provide the maximum value for the awards, the system determines the encumbrance levels of all the potentially redeemable awards (e.g., those awards that are not expired and are redeemable at a chosen supplier) and redeems the most encumbered first.

Ikeda does not teach or suggest all limitations of independent claims 1, 8, 17, and 19. Claim 1, as amended, recites, "determining which of the allowed awards, having different encumbrance levels, to redeem based on the encumbrance levels." (emphasis added). Claim 8 recites, "determining which of the allowed awards, having different encumbrance levels, to redeem based on the encumbrance levels." Claim 17 recites, "determining which of the allowed awards, having different encumbrance levels, to redeem based on the encumbrance levels." Claim 19 recites, "determining allowed awards, having different encumbrance levels, to redeem based on encumbrance levels."

Ikeda does not teach any form of "determining which of the allowed awards, having different encumbrance levels, to redeem based on the encumbrance levels." The present invention teaches that, "encumbrance of awards is measured in terms of restrictions on redeeming the awards at certain suppliers. Particularly, awards are encumbered if one or more suppliers will not accept them for redemption." (Specification Pg.13 Ln.12). Awards may be redeemable at all suppliers, or they may be redeemable at some suppliers and not redeemable at others. That is, different awards have different encumbrance levels. This aspect of the invention has been clarified in the claims which recite "awards, having different encumbrance levels." Ikeda's system teaches that a shop may either accept or not accept all awards. (See Fig. 9). Ikeda does not teach or suggest accepting awards from one source while rejecting awards from other sources. Thus, under Ikeda, all awards are either accepted or rejected by a given shop; awards do not have different encumbrance levels. See Examiner's Interview Summary

("[t]herefore points earned at shop B and D have the same 'encumbrance level' because said points earned at shop B and D have the **same level of acceptance** (i.e. not accepted at one store)."). Therefore, Ikeda cannot teach, "determining **allowed awards, having different encumbrance levels**, to redeem based on encumbrance levels." For this reason, all of the independent claims are allowable.

Claims 2-5, 7, 10-13, 15, 18, and 21 are allowable because they are dependant on claims which are allowable.

### **Claim Rejections – 35 U.S.C. § 103**

Claims 6 and 14 stand rejected by the Examiner as being obvious in light of Ikeda. These claims are allowable because they depend from allowable independent claims.

In addition, dependent claims 7, 15, and 21 are allowable for the additional and independent reasons set forth in Applicant's Response dated September 18, 2006.

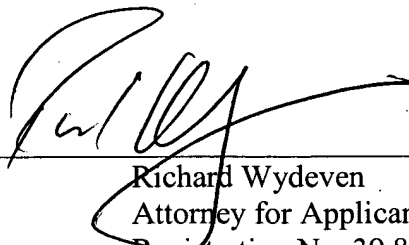
In view of the above remarks, it is believed that the claims satisfy the requirements of the patent statutes and are patentable over the cited art. Reconsideration of the instant application and early notice of allowance are requested. The Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

Respectfully submitted,

Date:

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By



Richard Wydeven  
Attorney for Applicants  
Registration No. 39,881  
ROTHWELL, FIGG, ERNST & MANBECK, p.c.  
Suite 800, 1425 K Street, N.W.  
Washington, D.C. 20005  
Telephone: (202)783-6040